

**SPECIAL TOWN MEETING
NOVEMBER 8, 2010**

Pursuant to the Selectmen's warrant of September 28, 2010, posted by the Constable on October 25, 2010, the Special Town Meeting was called to order at 7:08 p.m. in Hugh Mill Auditorium at Hale School by Moderator David Walrath.

Mr. Walrath reviewed certain town meeting protocols. The meeting rose for a moment of silence followed by an invocation recited by the Moderator who then led the gathering in the *Pledge of Allegiance to the Flag*.

Mr. Walrath nominated Gary Horowitz to serve as Temporary Deputy Moderator. The vote was unanimous in favor. He then announced his appointment of Elizabeth Painter as Assistant Moderator. Both were sworn by the Town Clerk.

Town officials were introduced: Selectmen, Town Administrator, Town Counsel, Selectmen's Administrative Assistant, Town Clerk, Assistant Town Clerk, Finance Committee, Capital Planning Committee, Community Preservation Committee, Planning Board, and Conservation Commission. Several non-voters who may be heard during the course of the meeting were approved.

On motion of Selectman Thomas Ryan, it was voted unanimously that the reading of the warrant and return of the Constable thereon be waived but made a part of the record of the meeting, and that the Moderator be permitted to refer to each article by subject matter instead of reading each article in its entirety.

On motion of Selectman Ryan, it was voted unanimously that no new article, or any section thereof, be considered after ten-thirty p.m., and that as soon as practicable after ten-thirty the meeting be adjourned to 7:00 p.m., November 9, 2010 in this place.

ARTICLE 1. Acceptance of Anticipated Emergency Legislation from General Court

On motion of Selectman Laura Spear, it was voted in excess a two-thirds majority that the sum of One Million Dollars (\$1,000,000.00) is appropriated to pay costs of providing financial and technical assistance to customers of the Assabet Water Company within the Town of Stow, as recently authorized by Chapter 359, Section 128 of the Acts of 2010, which was enacted by the General Court to permit the Massachusetts Water Pollution Abatement Trust (the "Trust"), in concert with the Town, to assist these customers in obtaining potable water and authorized, among other things, said customers to apply for low interest loans to aid in the permitting, construction and operation of drinking water wells and/or the reimbursement of expenditures made in the permitting, construction and operation of drinking water wells, and including but not limited to funds for the costs of wells and treatment and storage facilities and distribution pipes associated therewith; and that to meet this appropriation, the Treasurer, with the approval of the Selectmen, is authorized to borrow said amount through the Trust in accordance with Chapter 111, Section 127B½ and Chapter 29C of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the Town therefor. Betterments shall be assessed upon the properties of homeowners that obtain loans for this purpose in accordance with the provisions of Chapter 111, Section 127B½ of the General Laws as aforesaid. The Town is hereby authorized to enter into one or more loan agreements with the Trust and one or more project regulatory agreements with the Department of Environmental Protection as may be necessary to obtain funds from the Trust to be used to make the low interest loans described above. The Town, acting through the Board of Selectmen, is also authorized to execute and deliver all other contracts, agreements or certificates as may be necessary to carry out the purposes of this vote.

Selectmen Chair Laura Spear explained that a positive vote will enable residents of the Harvard Acres subdivision to obtain potable drinking water. Assabet Water Company operating within the development will soon file for bankruptcy, as there is no entity willing to take over the existing water system. The special legislation was made possible through the efforts of State Representative Kate Hogan and State Senator James Eldridge to provide loans for well drilling at a low interest rate. The loan from the Trust to the Town is at zero interest for a twenty-year term. The average cost for a well and associated costs is \$10,000, and it is expected that 60% of those residents may apply for a loan with a ten-year term. A loan will be represented by a lien on the property. Repayment will be accomplished through the quarterly real estate tax billings. The 2% interest applied to the loans is intended to cover the Town's administrative costs. A loan will be available to any homeowner who dug a well after May 2010. The loan program will be administered by the Board of Health through the Town Administrator.

Jamie Monat, chair of the Harvard Acres Water Board, spoke in favor of the article as a method of providing funding to those who do not have the means to afford the expense.

The Finance Committee was in favor of the article.

Temporary Deputy Moderator Gary Horowitz assumed the gavel for the following article.

ARTICLE 2. Transfer and Authorization of Deer Field Lane Parcel

On motion of Selectman James Salvie, it was voted in excess of a two-thirds majority, as amended, pursuant to Mass. General Laws Chapter 40, Section 15A and other applicable law, to authorize a portion of the real property currently under the care, custody and control of the Board of Selectmen for use as open space and recreational purposes and located at Deer Field Lane, Stow, Massachusetts, Assessors' Parcel ID U11/039C-1, said real property consisting of 13.45 acres, more or less, be used in conjunction with the development of a public water supply, including, but not limited to, authorizing the Board of Selectmen to enter into a long or short term lease of all or a portion of said parcel for the purposes of development of a public water supply and including the grant of approval to construct and install all surface and subsurface infrastructure and equipment necessary for the development of a public water supply, such plans and programs for the development of the public water supply and/or lease of said land for the purposes of developing a public water supply to be determined and carried out by the Board of Selectmen; and further, that the Board of Selectmen are empowered to take any steps required by law to obtain approval for the use of said real property for the above described purposes, provided however, that prior to commencing any of the activities or actions described above, the Board of Selectmen or their designee shall file a petition with and receive approval from the General Court or other agency of the Commonwealth pursuant to guidelines, if any, established by the Commonwealth to modify the terms of the conservation restriction running with said parcel and/or the restrictions imposed by operation of Article 97 of the Massachusetts Constitution to provide for the uses authorized by this motion.

The Finance Committee was in favor of the article.

Selectman Laura Spear reported that attempts have been made to obtain a water supply for the Lower Village. Several business owners are unable to expand or make improvements because of lot limitations and DEP regulations. The subject parcel may be the most feasible source. The intent is not to develop a municipal water supply, but rather a public water supply defined by one that services fifteen or more locations. Several steps are required before this parcel could become a potential water supply. An amendment of the existing conservation restriction is to be filed by the Conservation Commission to the State. A public hearing before the Planning Board is to be held to amend the special permit for its subdivision approval of the Deer Field Lane development. Thereafter a home rule petition is to be approved by the legislature.

In response to a question about how long the process may take, Town Administrator responded the matter could appear on the May Annual Town Meeting warrant if a potential operator came forward. The Conservation Commission had voted unanimously to amend the conservation restriction and felt the proposed use was compatible with the conservation value of the property. It is anticipated that the existing trails would be maintained.

Ernest Dodd moved to amend the original motion to omit authorizing the Selectmen to "*sell or*" enter into a long or short term lease or for the "*sale*" of said land. Discussion ensued. The Finance Committee was not in favor of the amendment. Comment was made that a sale with conditions could be negotiated. When put to a vote, the motion to amend was carried by majority.

Discussion on the main motion, as amended, continued. Town Administrator stressed that a positive vote authorizes the Town to negotiate a lease to a private water company. The Town could become a customer, but not an owner. The vote is only to allow the initial process to go forward.

At 8:48 p.m. there was a call for the question. When put to a vote, the motion, as amended, carried in excess of a two-thirds majority.

Moderator David Walrath returned to the lectern for the remainder of the meeting.

ARTICLE 3. Engineering Design Funds for Assabet River Rail Trail on Track Road

On motion of Selectman Stephen Dungan, it was voted unanimously to approve the expenditure of and appropriate and transfer the sum of \$46,000.00 for the Town's share of the cost to design to requirements specified by the Massachusetts Department of Transportation and those imposed by the Stow Board of Selectmen, if any, on a regional basis with the towns of Maynard and Acton, with Acton managing the program, a portion of the Assabet River Rail Trail from the Stow/Maynard town line to Sudbury Road, said monies to be transferred from the Open Space and Recreation Community Preservation Fund balance.

The Finance Committee was not in favor of the article as it was felt there were many unanswered questions.

Donald Rising, as representative to the Assabet River Rail Trail Committee said that this portion is 1.9 miles long from Sudbury Road to White Pond Road on the former railroad bed. The requested funds will begin the \$230,000 design phase. The amount in the article represents Stow's 20% share.

Robert Wilber, chairman of the Community Preservation Committee, reported the committee voted to approve the transfer of funds for this purpose. It was noted the Town has already expended funds to purchase an easement on the property.

Report of the Community Preservation Committee: On September 27, 2010 the Community Preservation Committee voted unanimously to place article 3 on the warrant. On November 1, 2010 the committee voted unanimously to increase the amount from \$45,000 to \$46,000 and recommend the amendment to special town meeting.

ARTICLE 4. Change in Hours for Service of Alcohol in Restaurants

On motion of Selectman Charles Kern, it was voted in excess of a two-thirds majority to accept the provisions of Section 33B of Chapter 138 of the Massachusetts General Laws to allow the Board of Selectmen (Local Licensing Authority) to expand the hours when restaurant liquor license holders may sell alcoholic beverages.

Mass. General Laws Chapter 138, Section 33B

The local licensing authority of any city or town which accept this section may authorize licensees under section twelve to sell alcoholic beverages between the hours of 10:00 a.m. and 12:00 noon on Sundays, the last Monday in May and on Christmas day or on the day following when said day occurs on Sunday.

The meeting was dissolved at 9:22 p.m.

Checkers at the Door: Carol Dudley, Elizabeth MacGilvra, Alice Mortensen, and Betty Sauta

Tellers: were not needed to assist the Moderator.

Timekeeper: Catherine Desmond

Number of Voters Checked: 284 (6% turnout)

Number of Registered Voters: 4775

A true copy: Attest: Linda E. Hathaway,
Town Clerk of Stow